

November 15, 2011

Diana Reyes Cazessus
San Francisco Electrical
Contractor Association
555 Gough Street
San Francisco, CA 94102-4417

Re: Your Request for Advice
Our File No. A-11-182

Dear Ms. Cazessus:

This letter responds to your request for advice regarding the campaign provisions of the Political Reform Act (the “Act”).¹ In our reply, we restrict our comments to the applicability of the Act to your question.

You are an administrative assistant that has been authorized by the San Francisco Electrical Contractors Association (the “Association”) to request, on its behalf, advice from the Fair Political Practices Commission (the “Commission”). The Association is a nonprofit general purpose recipient committee and has filed the applicable reports for such a committee. The Association intends to make a contribution of \$2,000 from its general fund to a state PAC called the California Electrical Contractors PAC (the “PAC”). The PAC contributes directly or indirectly to candidates that support the main purpose of the Association. You ask whether the Act prohibits this contribution.

Prohibitions on the Contribution.

The provisions of the Political Reform Act governing political contributions are primarily disclosure rules. While there are certain restrictions and prohibitions on the making of contributions, none apply to your facts. Accordingly, the Act does not prohibit the Association from making a contribution to the PAC.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Disclosure Requirements for the Association's Contributions.

Organizations, such as the Association, that receive donations or other payments (e.g., membership dues) for purposes other than making political expenditures, nevertheless do, at times, make political expenditures to support or oppose state or local candidates or ballot measures. These organizations are subject to the same disclosure rules as those that raise funds specifically for elections in that they must disclose the sources of funds used for their political expenditures. Common examples are nonprofit organizations and local clubs that generally focus on educational and social activities.

Regulation 18215 sets out a rule for these multipurpose organizations to use for determining if they qualify as a recipient committee required to disclose funding sources under the Act. A multipurpose organization is receiving "contributions" if its members or donors (collectively, "Donors") make payments to the organization (including dues) and, at the time of making the payments, the Donors know or have reason to know that the funds, with which their payments will be commingled, will be used to make contributions or expenditures to support or oppose state or local candidates or ballot measures. There is a presumption that the Donors *do not* have reason to know that all or part of their payments made to the multi-purpose organization will be used for political activities *unless* the organization has made expenditures or contributions totaling at least \$1,000 during the current calendar year or any of the immediately preceding four calendar years.

Accordingly, once the Association has made its first political contributions or expenditures totaling \$1,000 or more, the presumption that its Donors do not have reason to know that the payment would be used to make contributions or expenditures no longer applies. For the remainder of that year and the following four years, any Donor to the Association presumably knows or has reason to know that funds with which the donations will be commingled may be used for political purposes. If a subsequent contribution or expenditure of \$1,000 or more is made by the Association during the applicable period (current year plus four following years), the Association becomes a recipient committee, and any donations or membership fees it receives after the "first bite" contribution has been taken, or expenditures of \$1,000 or more have been made, are deemed to have been received for political purposes, and the sources of any funds used by the Association to make those contributions would be subject to disclosure on a reasonably apportioned basis.

Special Reporting Rules for Sponsoring Committees.

The "one bite of the apple" rule applies to associations even if the association has a sponsored PAC. One of the ways a person or organization becomes a "sponsor" of a committee is by collecting contributions for the committee through payroll deductions or membership dues. Thus, the Association is a "sponsor" of the PAC. Unlike other associations, an association that has a sponsored committee can avoid becoming a committee in its own right by reporting its activities on the sponsored committee's report. Thus, if the Association decides to report its activities on the PAC's reports, the Association would not be a committee and would not be

required to file reports. If this situation should arise, we urge you to call our Technical Assistance Division for advice.

If you have other questions on this matter, please contact our Technical Assistance Division at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: Valentina Joyce
Counsel, Legal Division

VJ:jgl

LEGAL DIVISION ASSIGNMENT SHEET

Tracking Number:	11330
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ITEM DESCRIPTION			
Advice Letter No.	11-182	Requestor	Cazessus, Diana Reyes
Regulation Project No.			
Other (describe)			

Received By FPPC On:	09/27/11	Due Date:	10/26/11
Assigned To:	Val	Date To Assignee:	09/27/11

REVIEWERS	Date To Review	1st Approval & Date (Including Regulation Notices)	Date To Review	Final Approval & Date (Incl. Regulation Adoption Memos)
Proofed				
Senior				
TAD Chief (SEI, Campaign, Conflict of Interest Code letters)				
Assistant GC				
General Counsel				
Executive Director (discretion of GC)				
Chair (discretion of GC)				